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Community Involvement Update for August 15, 2015

Summary: R9 Community Involvement Coordinators Linda Reeves and ZiZi Searles spoke at the Nenahnezad Chapter House to communities invited from the Nenahnezad, San Juan, Hogback, and Upper Fruitland Chapters. The meeting was arranged by the Office of Vice President Jonathan Nez. The meeting set up consisted of a panel of elected officials and personal tasked with responding to the spill. Panel members included Council Delegates Lorenzo Bates (Speaker of Legislative Affairs) , San Juan County CEO Dr. Kim Carpenter, New Mexico State Representative Sharon Clahchischilliage, San Juan County Commission Margaret McDaniels, Navajo Nation Vice President Jonathan Nez, and Navajo Nation Attorney General Ethel Branch. EPA was also part of the panel. Other council Delegates, and elected chapter officials were also present in the audience as well as a Navajo staffer from Senator Udall's office.

The purpose of the meeting was for Navajo public officials to relay efforts to address community concerns regarding San Juan River access to agricultural and livestock water, and for New Mexico officials to explain the science behind the lifting of the ban on the San Juan River. EPA's role in the meeting was to provide an update on response efforts and to record and address the public and Navajo governments concerns. EPA apologized for causing the spill and read Gina MaCarthy's statement to the audience. EPA summarized response efforts to date and announced the release of Region 9 water quality data on the EPA website. We were careful to emphasize that the data collected was being shared with the Navajo government and that it would be the Navajo government that would announce the lifting of the ban once the results showed water quality was safe for non-potable purposes (i.e. farming and livestock).

The first half of the meeting consisted of public officials and emergency response leaders (including EPA) giving public statements on the spill response. The second part of the meeting included comments, questions, and dialogue with the audience. Topics that were discussed included lifting the ban on the San Juan River, health and safety, long term impacts, reflections on jurisdictional issues, comments on better emergency response coordination for future disasters, how the spill happened, prevention of future spills, the desire to see abandoned mine lands in Colorado become Superfund sites, the federal government's historic relations with the Navajo people, and SF-Form 95.

More than one press representative attended the event. Our pictures were taken several times by professional photographers present at the event.

Number of Participants: ~ 200-250 people

SUMMARY OF OFFICIAL STATEMENTS – Chronological Order

Council Delegate Lorenzo Bates – Speaker of Legislative Affairs for the Navajo Nation

Council Delegate Bates outlined uncertainties facing the Navajo people surrounding the Gold King Mine Spill event and made some suggestions for moving forward. An outline of the topics Speaker Bates touched on is below:

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- When will the water be turned back on;
- Is there a baseline data set that can be used to compare impacts of the spill on the river and how is data set being used to understand impacts to the river within the Navajo Nation;
- What are the impacts of irrigation flushing on the San Juan River;
- Losses are being incurred but the way to report those losses had not yet emerged. In the interim grazing and farm board officials were being asked to track loses;
- Evaluating ways to overcome jurisdictional issues so the next emergency response is better coordinated;
- Testing for long term impacts, including the Navajo Agricultural Products Industry (NAPI) as an agency to be involved in the long term monitoring of sediments in the river and on farms.

EPA Community Involvement Coordinator Linda Reeves

EPA apologized for the spill, read the administrators statement, and provided a general update on EPA efforts to help the community and test water quality in the river (EPA's comments were translated into Navajo).

- Apology to the community for the spill, reading of Administrator statement;
- Stated that EPA's priorities are evaluating spill impacts to the river and providing for animal and people needs;
- Outline of sampling program using a map of sampling locations as a visual aide;
- Announcement that EPA data was now released and available on the Gold King Mine Website;
- Explanation that the results thus far showed that the data set had a high degree of variability and that further evaluation was needed;
- A commitment to share data and coordinate with the Navajo government so decisions could be made that were protective of the health, livestock, and crops;
- Announcement of water and hay resources available to impacted communities.

Navajo Nation Vice President Jonathan Nez

Vice President Nez primarily focused on Navajo efforts to respond to the emergency and described actions the President's office was taking to address the short and long term impacts of the spill.

- Commented on the efforts of Navajo people to chip in and help one another in various ways;
- Commended Navajo emergency response efforts and described communities that were still in need such as Aneth where access to drinking was impacted due to ban on river water;
- Commented on his and President Begaye's visit with Administrator Gina McCarthy and relayed the conversation between the Administrator and the President's Office to the audience;

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- Stated that the head of Navajo EPA, Dr. Ben, is overseeing the sampling and evaluation of data;
- Described the President's Office visit to the Gold King Mine site;
- Stated the Navajo Nations demand that the abandoned mines in Colorado become part of the Superfund program so they no longer pose a risk to communities downstream.

Dr. Kim Carpenter, PhD – CEO of San Juan County

Dr. Carpenter and his colleagues explained their efforts to coordinate with the Navajo, EPA, State, and local officials and provided the rationale for their basis of lifting the ban on the San Juan River within the 12 hours (from the time of the meeting. San Juan County New Mexico lifted the restrictions on the river at 8 p.m. that evening).

Sharon Clahchischilliage (R) - District 4; New Mexico House Representatives

Sharon went into the history of the experience of the Federal government and the Navajo people. Sharon also had specific recommendations for how the emergency response could have been better handled.

- Commended EPA on apologizing;
- Pointed out that historically the government does not apologize, the lack of federal government accountability is a deep source of anger and hurt amongst the Navajo people – the legacy of the Navajo abandoned uranium mines was cited as an example of government betrayal;
- Stated that the impact of the mine waste on upstream communities likely made a difference in the response and attention Navajo people were getting, Navajo's were heard because of these communities: *"If these communities hadn't been involved then maybe we would have been forgotten about."* (Quote from notes of CIC ZiZi Searles);
- Recommendations for future emergency responses:
 1. Lift and open federal jurisdiction for Navajo. Jurisdictional issues prevented information flow.
 2. Data from other EPA regions were released, but Region 9 data was slow not yet released; requested for quicker turnaround of data.
 3. Asked Senator Udall staffer to request that the Senator would work on cumbersome jurisdictional issues that reduced effectiveness of emergency response.

Ethel Branch - Navajo Nation Attorney General

About midway through the meeting Chapter Officials passed out copies of Standard Form 95 to all panel members. EPA was asked about the use of this form. We stated that use of the form was not required to qualify for compensation. We then deferred to the Navajo Nation Attorney General on the use and contents of the form as it relates to Navajo interests.

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- The AG explained what the form was and that it was a claim form for damages incurred during the emergency response;
- She explained that the language in the form was such that if a Navajo person signs the form then they are completely releasing EPA for any damages that may be unknown at this time but related the spill. The AG then read the objectionable language out loud to the audience;
- She asked the Navajo people to not sign the form.
- The AG relayed a conversation she had with Senator Martin Heinrich (D) New Mexico regarding the offending language. Senator Heinrich said assured the Navajo Nation AG that EPA would honor future claims. The AG explained that the current form language would allow EPA to not honor the guarantee relayed by Senator Heinrich;
- The AG said in order for the SF-95 form to be acceptable one of three things would need to happen:
 1. The U.S. Attorney General would need to issue an opinion backing up this guarantee;
 2. A new claim form would need to be drafted;
 3. The offending language deleted.
- A request was made to the audience to document any and all losses.

Navajo Council Delegate Leonard Tsosie - (sitting in audience)

Delegate Tsosie made comments on SF-95 and the inadequacy of the response given the realities facing impacted people. He also pointed out shortcomings of the response.

- Suggested that cultural and emotional damages be included on a revised claim form;
- Stated that the lack of data available impacted the ability of the community to assess damages;
- Pointed out that elders do often do not have the energy or the means to haul water;
- Suggested the outcome of the spill could be long-term health impacts to Navajos and their children
- Recommended that the upstream mines and the river become Superfund sites
- Recommended that EPA send claim adjusters to help Navajos fill out their forms

AUDIENCE SUMMARY OF QUESTIONS AND COMMENTS

- Preventing livestock from accessing the river is a hardship, people are spending money on fence material, gas money, to build and reinforce corrals for animals used to freely roaming about;
- People asked where Obama, the Red Cross and other emergency resources were;
- Two audience members suggested the spill was an intentional act done by EPA;
- Concerns over long term impacts to river water and the health and safety of crops;
- People wanted water tanks in their community, expressed the hardship of driving;
- Could farmers be given the ability to test themselves?

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